

THE HONORABLE FRED Van SICKLE

F. MIKE SHAFFER, WSBA No. 18669  
BRADLEY B. JONES, WSBA No. 17197  
KENNETH G. KIEFFER, WSBA No. 10850  
GORDON THOMAS HONEYWELL  
MALANCA PETERSON & DAHEIM LLP  
1201 Pacific Avenue, Suite 2100  
Tacoma WA 98402  
253-620-6500

STEVE W. BERMAN, WSBA No. 12536  
CLYDE A. PLATT, JR., WSBA No. 22946  
BRENT R. WALTON, WSBA No. 27395  
HAGENS BERMAN SOBOL SHAPIRO LLP  
1301 Fifth Avenue, Suite 2900  
Seattle, WA 98101-2609  
206-623-7292

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

In re METROPOLITAN SECURITIES  
LITIGATION

No. CV-04-025-FVS

CLASS ACTION

THIS DOCUMENT RELATES TO:  
ALL ACTIONS

STIPULATED PROTECTIVE  
ORDER REGARDING  
CONFIDENTIAL INFORMATION

In order to protect the confidentiality of certain information obtained by the parties in connection with the consolidated cases above, the parties, through their counsel of record, hereby agree as follows:

Stip. Protective Order Re Confidential Info - 1 of 19  
(Case No. CV04-0025-FVS)  
[1308871 v9.doc]

LAW OFFICES  
GORDON, THOMAS, HONEYWELL, MALANCA,  
PETERSON & DAHEIM LLP  
1201 PACIFIC AVENUE, SUITE 2100  
POST OFFICE BOX 1157  
TACOMA, WASHINGTON 98401-1157  
(253) 620-6500 - FACSIMILE (253) 620-6565

1           A. Any party or non-party may designate as "Confidential," as set  
2 forth herein, any document or information that that party or witness considers in  
3 good faith to contain non-public, confidential, trade secret, proprietary, or  
4 private financial information subject to protection under the Federal Rules of  
5 Civil Procedure (hereinafter referred to as "Confidential Information").

6           B. A party or non-party may designate a document produced by it that  
7 that party or witness considers in good faith to contain Confidential Information  
8 by marking the document "Confidential."

9           C. A party or non-party may designate information disclosed by it  
10 during a deposition or in response to written discovery that that party or witness  
11 considers in good faith to contain Confidential Information by so indicating in  
12 said responses or on the record at the deposition and requesting the preparation  
13 of a separate transcript (or videotape) of such material. Both the non-  
14 confidential and confidential transcripts (or videotapes) shall use a single set of  
15 continuous numbers so that the continuity of the deposition transcript pagination  
16 is maintained. Additionally a party may designate in writing, within 30 days  
17 after receipt of said responses or of the deposition transcript for which the  
18 designation is proposed, that specific pages of the transcript (or portions of the  
19 videotape) and/or specific responses be treated as Confidential Information. All  
20 costs associated with the preparation of separate confidential and non-  
21 confidential transcripts and videotapes or of executing procedures for  
22 denominating Confidential Information in transcripts as referenced in this  
23 Section shall be borne by the designating party who shall also arrange for  
24 separate payment for such services through the service provider(s).  
25  
26

1 D. Any Confidential Information that is inadvertently produced  
2 without written notice or identification as to its confidential nature may be so  
3 designated in writing by the producing party after the realization that the  
4 Confidential Information has been produced without such designation.  
5 However, until the discovery materials are designated Confidential as set forth  
6 above, the parties shall be entitled to treat the material as non-confidential.  
7 Upon designation, such Confidential Information shall then be treated as  
8 Confidential in accordance with the provisions of this Order.

9 E. Any non-designating party may object to any confidentiality  
10 designations or any proposed confidentiality designations in writing or on the  
11 record. Upon such an objection, the parties shall follow the procedures  
12 described in paragraph J below. After any confidentiality designation is made  
13 according to the procedures set forth in paragraphs B, C, or D, the designated  
14 documents or information shall be treated as confidential until the objection is  
15 resolved according to the procedures described in paragraph J below.

16 F. No Confidential Information may be used for any purpose other  
17 than litigation of (i) the actions consolidated under Cause No. CV-04-025-FVS  
18 ("the Class Actions"), (ii) any action or dispute involving any of the defendants  
19 to the Class Actions and Metropolitan Mortgage & Securities Co., Inc.  
20 ("Metropolitan") or Summit Securities, Inc. ("Summit") or any subsidiary of  
21 Metropolitan or Summit (including, but not limited to, Western United Life  
22 Assurance Co.) or any receiver or statutory successor to those entities  
23 (collectively, "the Metropolitan Group"), or (iii) any investigatory or  
24 enforcement proceeding brought by any federal or state agency against a  
25 defendant in the Class Actions relating to the Metropolitan Group (the actions  
26

1 and proceedings described in i, ii, and iii are collectively referred to herein as  
2 “the Actions”), provided that any party to the Class Actions that discloses  
3 Confidential Information, which was designated confidential by another party or  
4 non-party in the Class Actions, in another action obtains the agreement of all  
5 parties to that other action to be bound by this Order prior to such disclosure.

6 G. Except with the prior written consent of the party or non-party  
7 designating documents or other information confidential or upon prior order of  
8 this Court obtained upon notice to such other counsel, Confidential Information  
9 shall not be disclosed to any person other than:

10 1. Counsel of record for the respective parties to the Actions,  
11 including in-house counsel, co-counsel or insurance counsel;

12 2. Employees of such counsel assisting in the conduct of the  
13 Actions for use in accordance with this stipulation and order;

14 3. The parties to the Actions (including their partners and  
15 employees). With respect to the Class Actions, “the parties” shall include  
16 individual or lead plaintiffs, proposed class representatives and/or class  
17 representatives, and proposed class members and/or class members (to the  
18 extent deemed necessary by counsel, for the prosecution or defense of the  
19 Actions) and the defendants in the Class Actions;

20 4. Consultants or experts retained for the prosecution or defense  
21 of the Actions, provided that each such consultant or expert shall have executed  
22 a copy of the Certification annexed to this Order (which shall be retained by  
23 counsel to the party so disclosing the Confidential Information) before being  
24 shown or given any Confidential Information;

1           5. Any authors of the Confidential Information and any  
2 individuals shown to have been an original recipient of the Confidential  
3 Information;

4           6. The Court, court personnel, and court reporters in the  
5 Actions;

6           7. Any mediator retained by any two or more parties to the  
7 Actions, provided that each mediator shall have executed a copy of the  
8 Certification annexed to this Order before being shown or given any  
9 Confidential Information;

10           8. Any arbitrator retained by any two or more parties to the  
11 Actions, provided that each arbitrator shall have executed a copy of the  
12 Certification annexed to this Order before being shown or given any  
13 Confidential Information;

14           9. Persons engaged by any counsel or party to the Actions to  
15 photocopy, image, or maintain the Confidential Information;

16           10. Witnesses (other than persons described in paragraph G(5)).  
17 A witness shall be requested to sign the Certification before being shown  
18 Confidential Information. Any witness who will not sign the Certification as  
19 requested may nevertheless be shown Confidential Information only in a  
20 deposition (or at trial as provided for in paragraph N). At the request of any  
21 party, the portion of the deposition transcript involving the Confidential  
22 Information shall be designated "Confidential" pursuant to paragraph C above.  
23 Witnesses who will not sign the Certification as requested but who are shown  
24 Confidential Information at a deposition shall not be allowed to retain copies of  
25 the Confidential Information;  
26

1           11. Other persons only (i) after notice to all parties and upon  
2 order of the Court, or (ii) upon written consent of the producing party; and

3           12. Under no circumstances shall any Confidential Information,  
4 or information set forth in or derived from Confidential Information, be  
5 communicated, directly or indirectly, to any member or form of the press or  
6 media without the prior consent of the party or non-party that designated the  
7 Confidential Information.

8           H. For applications and motions to the Court on which a party submits  
9 Confidential Information, all documents and chamber copies containing  
10 Confidential Information that are submitted to the Court shall be filed with the  
11 Court in sealed envelopes or other appropriate sealed containers. On the outside  
12 of the envelope or container, a copy of the first page of the document(s) shall be  
13 attached. If Confidential Information is included in the first page attached to the  
14 outside of the envelope or container, it may be deleted from the outside copy.  
15 The word "CONFIDENTIAL" shall be stamped on the envelope or container  
16 and a statement substantially in the following form shall also be printed on the  
17 envelope:

18                       This envelope or container is sealed pursuant to Order  
19 of the Court, contains Confidential Information and is  
20 not to be opened or the contents revealed except by  
21 Order of the Court or agreement by the parties.

22           In the event that the Court's local rules are amended to provide for filing  
23 documents under seal using the Court's electronic case filing procedures, those  
24 procedures may be followed in lieu of the procedures described in the preceding  
25 paragraph.  
26

1 I. Information produced by non-parties may be designated as  
2 "Confidential" pursuant to paragraphs B, C, or D of this Order. Nothing herein  
3 shall restrict a party or non-party from using or disclosing its own Confidential  
4 Information in any manner it deems appropriate.

5 J. If a party contends that any material designated as "Confidential" is  
6 not entitled to confidential treatment, that party may at any time give written  
7 notice challenging the designation to the party that designated the material (the  
8 "designating party") as "Confidential." The designating party shall respond in  
9 writing to the notice challenging the designation within 20 days, or within such  
10 other period of time as may be agreed upon by the parties. If the designating  
11 party refuses to remove the "Confidential" designation, its response shall state  
12 the reasons for this refusal. If the parties are unable to resolve their dispute over  
13 the designation of the material, any party may move the Court for an order  
14 removing the designation or affirming that the designation was properly made.  
15 In the event that any such motion is made, the party that designated the material  
16 as "Confidential" shall have the burden of establishing that the material is  
17 entitled to confidential treatment.

18 K. Notwithstanding any challenge to the designation of material as  
19 Confidential Information, all such material shall be treated as confidential and  
20 shall be subject to the provisions hereof unless and until one of the following  
21 occurs:

- 22 1. The party or non-party who designated the material as  
23 Confidential Information withdraws such designation in writing; or
  - 24 2. The Court rules the material is not Confidential Information.
- 25  
26



1 L. In the event any Confidential Information is subpoenaed or  
2 requested during the pendency of any of the Actions by any court, regulatory,  
3 administrative, law enforcement or legislative body or any person or litigant  
4 purporting to have authority to subpoena or request such information, including  
5 requests based on any state or federal Freedom of Information Act, no  
6 Confidential Information shall be so disclosed without first giving fourteen (14)  
7 calendar days' advance written notice to the party or non-party that designated  
8 the Confidential Information, so as to enable the party or non-party to have a  
9 reasonable opportunity to seek appropriate relief.

10 M. All provisions of this Order restricting the communication or use of  
11 Confidential Information shall continue to be binding after the conclusion of this  
12 action, unless otherwise agreed or ordered. Upon conclusion of the Actions, a  
13 party in the possession of documents designated Confidential, other than that  
14 which is contained in discovery responses, deposition transcripts and documents  
15 filed with the Court, shall either (a) return such documents no later than 90 days  
16 after termination of the last Action, to counsel for the party or non-party who  
17 provided such documents, or (b) destroy such documents within 90 days upon  
18 consent of the party or non-party who provided the documents, and certify in  
19 writing within 90 days that the documents have been destroyed.

20 N. The terms of this Order do not preclude, limit, restrict, or otherwise  
21 apply to the use of Confidential Information at trial.

22 O. Nothing herein shall be deemed to waive any applicable privilege  
23 or work product protection, or to affect the ability of a party or non-party to seek  
24 relief for an inadvertent disclosure of material protected by privilege or work  
25 product protection.  
26



1 P. Nothing herein shall limit, expand, supersede or in any way alter or  
2 modify any other protective orders or confidentiality agreements that have been  
3 entered into by any of the parties to this Order or in any of the Actions,  
4 including the Stipulated Protective Order And Confidentiality Agreement  
5 Regarding Disclosure Of Financial Information For Settlement Purposes entered  
6 by this Court and the Bankruptcy Court on or about February 15, 2005, and the  
7 Stipulated Protective Order And Confidentiality Agreement regarding the  
8 confidentiality of legal billing information entered by the Bankruptcy Court on  
9 or about November 1, 2004. All such other protective orders and confidentiality  
10 agreements in any of the Actions shall remain in full force and effect.

11 Q. This Order may only be modified by the written consent of all  
12 parties to the Order and the Court, or, with respect only to the Confidential  
13 Information of a specific party or non-party, by the written consent of that party  
14 or non-party that designated the Confidential Information. Nothing contained  
15 herein shall be construed or applied to alter or limit the rights of any party under  
16 any applicable insurance policies. This Order shall not prevent any party from  
17 later seeking to modify its terms or from seeking such further provisions or  
18 relief as may be deemed appropriate or desirable.

19 \*\*\*\*\*

20 \*\*\*\*\*

21 \*\*\*\*\*

22 \*\*\*\*\*

23 \*\*\*\*\*

1 R. The parties will remain bound by this Order and the Court shall  
2 retain jurisdiction to enforce this Order after termination of the Actions.

3 DATED: May \_\_\_, 2005

4 GORDON, THOMAS, HONEYWELL,  
5 MALANCA, PETERSON & DAHEIM LLP

6  
7 By /s/ Brad Jones

8 F. Mike Shaffer, WSBA No. 18669

9 fshaffer@gth-law.com

10 Bradley B. Jones, WSBA No. 17197

11 bjones@gth-law.com

12 Kenneth G. Kieffer, WSBA No. 10850

13 kkieffer@gth-law.com

14 Attorneys for Plaintiffs

15 HAGENS BERMAN SOBOL SHAPIRO LLP

16 By /s/ Clyde A. Platt, Jr.

17 Steve W. Berman, WSBA No. 12536

18 Clyde A. Platt, Jr., WSBA No. 22946

19 Brent R. Walton, WSBA No. 27395

20 Attorneys for Plaintiffs

21 Approved as to form and  
22 Notice of Presentment Waived:

23 DLA PIPER RUDNICK GRAY CARY US LLP

24 By: /s/ Brian D. Buckley

25 Stellman Keehnell, WSBA #9309

26 Brian D. Buckley, WSBA #26423

CORR CRONIN MICHELSON BAUMGARDNER  
& PREECE LLP

By: /s/  
Kelly P. Corr, WSBA #555  
Steven W. Fogg, WSBA #23528

DAVIS WRIGHT TREMAINE LLP

By: /s/  
Stephen M. Rummage, WSBA #11168  
Charles S. Wright, WSBA #31940

REED McCLURE

By: /s/  
Earl M. Sutherland, WSBA #23928

FOSTER PEPPER & SHEFELMAN PLLC

By: /s/ Christopher G. Emch  
Tim J. Filer, WSBA #16285  
Christopher G. Emch, WSBA #26457  
Jeffrey S. Miller, WSBA #28077

HELLER EHRMAN LLP

By: /s/ Lori Lynn Phillips  
George E. Greer, WSBA #11051  
Lori Lynn Phillips, WSBA #25473

1 ORRICK HERRINGTON & SUTCLIFFE LLP

2 By: /s/  
3 Kenneth Herzinger  
4 Michael Torpey

5  
6 HOLDEN & ORESKOVICH

7 By: /s/ Carl J. Oreskovich  
8 Carl J. Oreskovich, WSBA #12779

9  
10 STROOCK & STROOCK & LAVAN, LLP

11 By: /s/ Mary Manesis  
12 Mary Manesis

XXXXXXXXXXXXX  
**[PROPOSED] ORDER**

IT IS SO ORDERED.

DATED this 15th day of June, 2005.

s/ Fred Van Sickle

HON. FRED VAN SICKLE  
UNITED STATES DISTRICT JUDGE

## CERTIFICATION

I, \_\_\_\_\_, certify my understanding that Confidential Information is being provided to me pursuant to the terms and restrictions of the Stipulated Protective Order dated \_\_\_\_\_, 2005, in *In re Metropolitan Securities Litigation*, No CV-04-0025-FVS (Consolidated). I have been given a copy of and have read that Order and agree to be bound by it. I understand that all such Confidential Information and copies thereof, including, but not limited to, any notes or other transcripts made therefrom, shall be maintained in a secure manner and shall be returned no later than 30 days after the termination of this action to the counsel for the party or other person who provided such Confidential Information.

DATED: \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I hereby certify that on June 10, 2005, I electronically filed the following pleading:

**STIPULATED PROTECTIVE ORDER  
REGARDING CONFIDENTIAL INFORMATION**

The court caused them to be electronically mailed to the following counsel:

Ronald L. Berenstein at [rberenstein@perkinscoie.com](mailto:rberenstein@perkinscoie.com); [jstarr@perkinscoie.com](mailto:jstarr@perkinscoie.com)

Steve W. Berman at [steve@hbsslaw.com](mailto:steve@hbsslaw.com); [heatherwe@hbsslaw.com](mailto:heatherwe@hbsslaw.com)

Brian D. Buckley at [bbuckley@graycary.com](mailto:bbuckley@graycary.com)

Matthew A. Carvalho at [mcarvalho@hewm.com](mailto:mcarvalho@hewm.com); [sbarber@hewm.com](mailto:sbarber@hewm.com)

Kelly P. Corr at [kcorr@corrchronin.com](mailto:kcorr@corrchronin.com); [cweaver@corrchronin.com](mailto:cweaver@corrchronin.com);  
[reception@corrchronin.com](mailto:reception@corrchronin.com)

Robert A. Dunn at [bdunn@dunnandblack.com](mailto:bdunn@dunnandblack.com); [mobrien@dunnandblack.com](mailto:mobrien@dunnandblack.com);  
[lawyers@dunnandblack.com](mailto:lawyers@dunnandblack.com)

Christopher G. Emch at [emchc@foster.com](mailto:emchc@foster.com); [hickc@foster.com](mailto:hickc@foster.com)

Timothy L. Filer at [filet@foster.com](mailto:filet@foster.com); [howej@foster.com](mailto:howej@foster.com)

Steven Fogg at [sfogg@corrchronin.com](mailto:sfogg@corrchronin.com); [bmenard@corrchronin.com](mailto:bmenard@corrchronin.com)

Frank (Francis) J. Gebhardt at [fjgebhardt@fggzlaw.com](mailto:fjgebhardt@fggzlaw.com); [fjgstaff@fggzlaw.com](mailto:fjgstaff@fggzlaw.com)

George E. Greer at [ggreer@hewm.com](mailto:ggreer@hewm.com); [sedocketing@hewm.com](mailto:sedocketing@hewm.com)

Gary I. Grenley at [ggrenley@grebb.com](mailto:ggrenley@grebb.com)

Kenneth P. Herzinger at [kherzinger@orrick.com](mailto:kherzinger@orrick.com)

David D. Hoff at [dhoff@tousley.com](mailto:dhoff@tousley.com); [krichards@tousley.com](mailto:krichards@tousley.com)

Stellman Keehnell at [stellman.keehnell@dlapiper.com](mailto:stellman.keehnell@dlapiper.com);  
[pam.wallace@dlapiper.com](mailto:pam.wallace@dlapiper.com)



Mary D. Manesis at [mmanesis@stroock.com](mailto:mmanesis@stroock.com); [rharcourt@stroock.com](mailto:rharcourt@stroock.com)

Brendan T. Mangan at [brendan.magan@hellerehrman.com](mailto:brendan.magan@hellerehrman.com);  
[kristine.dippold@hellerehrman.com](mailto:kristine.dippold@hellerehrman.com); [sedocketing@hellerehrman.com](mailto:sedocketing@hellerehrman.com)

Jeffrey S. Miller at [milje@foster.com](mailto:milje@foster.com); [kellie@foster.com](mailto:kellie@foster.com); [snydd@foster.com](mailto:snydd@foster.com);  
[hickc@foster.com](mailto:hickc@foster.com)

Carl J. Oreskovich at [carl@handolaw.com](mailto:carl@handolaw.com); [roni@handolaw.com](mailto:roni@handolaw.com)

Lori Lynn Phillips at [lophillips@hewm.com](mailto:lophillips@hewm.com); [sedocketing@hewm.com](mailto:sedocketing@hewm.com)

Clyde A. Platt, Jr. at [clyde@hbsslaw.com](mailto:clyde@hbsslaw.com); [carrie@hbsslaw.com](mailto:carrie@hbsslaw.com)

Terry J. Price at [tprice@rmlw.com](mailto:tprice@rmlw.com)

Stephen M. Rummage at [steverummage@dwt.com](mailto:steverummage@dwt.com); [jeannecadley@dwt.com](mailto:jeannecadley@dwt.com)

Darrell W. Scott at [darrellscott@mac.com](mailto:darrellscott@mac.com); [ssimatos@mac.com](mailto:ssimatos@mac.com)

M. Todd Scott at [tscott@orrick.com](mailto:tscott@orrick.com)

Meg Smith at [mesmith@stroock.com](mailto:mesmith@stroock.com)

Kim D. Stephens at [kstephens@tousley.com](mailto:kstephens@tousley.com); [efile@tousley.com](mailto:efile@tousley.com)

Earl M. Sutherland at [esutherland@rmlaw.com](mailto:esutherland@rmlaw.com); [lbowlin@rmlaw.com](mailto:lbowlin@rmlaw.com)

Beth E. Terrell at [bterrell@tousley.com](mailto:bterrell@tousley.com); [efile@tousley.com](mailto:efile@tousley.com)

Christine Marie Weaver at [cw@cweaverlaw.com](mailto:cw@cweaverlaw.com)

Charles S. Wright at [charleswright@dwt.com](mailto:charleswright@dwt.com); [chrislewis@dwt.com](mailto:chrislewis@dwt.com)

and the following counsel will receive the filings via email:

Elizabeth J. Cabraser  
Lieff Cabraser Heimann & Bernstein LLP  
275 Battery Street, 30<sup>th</sup> Floor  
San Francisco CA 94111-33339  
Email: [ecabraser@lchb.com](mailto:ecabraser@lchb.com)

1 Richard M. Heimann  
2 Lieff Cabraser Heimann & Bernstein LLP  
3 275 Battery Street, 30<sup>th</sup> Floor  
4 San Francisco CA 94111-3339  
Email: *rheimann@lchb.com*

5 Carter M. Mann  
6 Foster Pepper Tooze LLP  
7 6001 SW Second Avenue, Suite 1800  
8 Portland OR 97204-3171  
Email: *mannnc@fosterpdx.com*

9 James P. McNeill, III  
10 Foster Pepper & Shefelman PLLC  
11 422 W Riverside Avenue Suite 1310  
12 Spokane WA 99201-0302  
Email: *mcnej@foster.com*

13 Robert J. Nelson  
14 Lieff Cabraser Heimann & Bernstein LLP  
15 275 Battery Street, 30<sup>th</sup> Floor  
16 San Francisco CA 94111-3339  
Email: *rnelson@lchb.com*

17 Nancie K. Potter  
18 Foster Pepper Tooze LLP  
19 601 SW Second Avenue, Suite 1800  
20 Portland OR 97204-3171  
Email: *pottn@fosterpdx.com*

21 Michael L. Rugen  
22 Heller Ehrman White McAuliffe LLP  
23 333 Bush Street  
24 San Francisco CA 94104-2878  
Email: *mrugen@hewm.com*

Julie B. Strickland  
Stroock & Stroock & Lavan – CA  
2029 Century Park East, Suite 1800  
Los Angeles, CA 90067  
Email: *jstrickland@stroock.com*

Michael Torpey  
Orrick Herrington & Sutcliffe LLP  
The Orrick Building  
405 Howard Street  
San Francisco CA 94105  
Email: *mtorpey@orrick.com*

Paul H. Trinchero  
Grenley Rotenberg Evans Bragg & Bodie  
1211 SW Fifth Avenue Suite 1100  
Portland OR 97204-3737  
Email: *ptrinchero@grebb.com*

Fabrice Vincent  
Lieff Cabraser Heimann & Bernstein LLP  
275 Battery Street, 30<sup>th</sup> Floor  
San Francisco CA 94111-33339  
Email: *fvincent@lchb.com*



Legal Assistant to:  
F. Mike Shaffer, WSBA No. 18669  
Bradley B. Jones, WSBA No. 17197  
Kenneth G. Kieffer, WSBA No. 10850  
GORDON THOMAS HONEYWELL  
MALANCA PETERSON & DAHEIM LLP  
1201 Pacific Avenue Suite 2100  
Tacoma WA 98402  
253-620-6500  
253-620-6565  
Co-Lead Counsel for Lead Plaintiffs